IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION Nos.: 23852 of 2004, 3891, 4385, 4874, 4875, 4876, 11721, 11725, 11726, 11869 and 11870 of 2005

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WRIT PETITION NO : 23852 of 2004

Between:

1. P. Mohan Reddy, Engineers & Contractors, Flat No. 102, Loukya Apartments, Revenue Board Colony, Asmangud, Hyderabad-500036. Rep. by its G.P.A. Holder.

   S. Upender Reddy, S/o. S. Chinna Krishna Reddy,
   R/o. Flat No. C-2, G.V.R. Towers, Srinagar Colony, Hyderabad-73.

..... PETITIONERS

AND

1.Govt of A.P., rep. by its Secretary, Irrigation & CAD. (PW) Department,
Secretariat Buildings, Hyderabad.
2.The Superintending Engineer, Telugu Ganga Project Circle,
Nadyal-518501, Kurnool District.
3.The Executive Engineer, Telugu Ganga Project Circle, Division.No.1,

Velugodu-518533, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue writ of Mandamus declaring the action of the respondents in not considering the petitioners application (representation) dt. 20.10.2004, for reimbursement of excess seigniorage charge over and above the rates stipulated in the agreement as illegal & arbitrary in respect of the works relating to and strengthening of V.B.R earth dam sections from K.M. 4.300 to 5.400, Agreement No.5/2004-05 dt. 13.09.2004.

Counsel for the Petitioner: MR.P.VINAYAKA SWAMY

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

WRIT PETITION NO : 3891 of 2005

Between:

S. Krishna Rao, S/o Rama Rao,
R/o H.No. 1-2-270/103/A2, K.K. Road, Suryapet, Nalgonda District.

..... PETITIONER

AND

1. The Secretary to Government of Andhra Pradesh, Irrigation Department, Hyderabad.
2. The Superintending Engineer, Irrigation & Command Area Development Department, Sriram Sagar Project, Stage-II, Warangal Circle, Warangal.
3. The Executive Engineer, Division II, Sriram Sagar Project Stage II, Warangal.
4. The Executive Engineer, Division I, Sriram Sagar Project Stage II, Warangal.
5. The Pay and Accounts Officer, Chinthagattu Camp, Warangal District.
6. The Chief Engineer, Sriram Sagar Project , Chintagattu Camp, Warangal, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, particularly one in the nature of Writ of Mandamus, directing the respondents not to collect enhanced seigniorage charges from the petitioner in respect of all items in execution of contract works covered under the agreement and refund the enhanced seigniorage fee deducted from the bills of the Petitioner.

Counsel for the Petitioner: MR.V.SREE RANGA RAO

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

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WRIT PETITION NO : 4385 of 2005

Between:

P. Mohan Reddy, S/o Sri Malla Reddy,
R/o Flat No. 102, Loukya Apartments, Revenue Board Colony, Asmangarh, Hyderabad.

..... PETITIONER

AND

1. The Government of Andhra Pradesh, Rep. by its Secretary, Irrigation & CAD (P.W) Department, Secretariat Buildings, Hyderabad.
2. The Superintending Engineer, SRSP. Stage II Circle, K.C. Camp, Chinthagattu Warangal.
3. The Executive Engineer, Chinthagattu Division - II, Hanamkonda , Warangal District.
4. The Executive Engineer, Division No. III, Thorrur,Nalgonda District.
5. The Executive Engineer, Division No. IV, Suryapet, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, or a direction, or a writ more particularly a writ in the nature of mandamus declaring the action of the respondents in not considering the petitioner's case for reimbursement of excess seigniorage charges over the about the rates stipulated in the agreements as illegal and arbitrary in respect of the works of the Agreement No. 6/2004 -2005 dated 11-5-2004 No. 43/2003-2004, dated 3-3-2004 , No. 33/2003-2004, dated 20-2-2004, No. 3/2004-2005, dated 11-5-2004, No. 4/2004-2005 dated 1-5-2004, No.5/2004-2005 dated 11-5-2004 , No. 58/2004-2005, dated 28-1-2005, NO. 59/2004-2005, dated 28-1-2005, No. 60/2004-2005, dated 9-2-2005 & No. 61/2004-2005 , dated 9-2-2005 , relating to the SRSP, Earthwork including construction of structures.

Counsel for the Petitioner: MR.P.PRATAP REDDY

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

WRIT PETITION NO : 4874 of 2005

Between:

P.Mohan Reddy, S/o.Sri Malla Reddy,
R/o.flat No.102, Loukya Apartments, Revenue Board Colony,
Asmangarh, Hyderabad.

..... PETITIONER

AND

1. The Govt. of A.P., rep. by its Secretary, Irrigation & CAD, (PW) Department, Secretariat Buildings, Hyderabad.
2. The Superintending Engineer, O&M circle, Miryalguda, Nalgonda District.
3. The Superintending Engineer, Telugu Ganga Project, Circle, Srikalahasthi, Chittoor Dist.
4. The Executive Engineer, NSC Division, Miryalguda, Nalgonda District.
5. The Executive Engineer, Division No.II, G.V.Gudem, Nalgonda Dist.
6. The Executive Engineer, Division No.VII, Thipparthy, Nalgonda District.
7. The Executive Engineer, IB Division, Srikalahasthi, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, or a direction or a writ more particularly a writ in the nature of mandamus declaring the action of the respondents in not considering the petitioner's case for reimbursement of excess seigniorage charges over and above the rates stipulated in the agreements as illegal and arbitrary in respect of the works of the Agreement No.6/2004-2005, dated 11-05-2004, No.15 SE/ 03-04, dt.22-10-2003, No.18/03-04, 27-01-04, No.16SE/03-04, No. 12/SE/04-05, dt.22-12-2004, No.13/SE/04-05, dt.22-12-2004 dt.22-10-2003, No.77SE/03-04, dt.05-03-04, No.79SE/03-04, dt.05-03-04 No.12 /SE/04-05, dt.22-12-2004, No.13/SE/04-05, dt.22-12-2004 and 16SE/03-04, dt.13-09-03, relating to the SRSP, Earthwork including construction of structures.

Counsel for the Petitioner: MR.P.PRATAP REDDY

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

WRIT PETITION NO : 4875 of 2005

Between:

M/s. Sri Laxmi Engineering Company rep by Managing Partner K. Rama Rao S/o Sri Purushotham Rao, R/o 102, My Home Manju Apartments, Somajiguda, Hyderabad.

..... PETITIONER

AND

1. The Government of Andhra Pradesh rep by Secretary, Irrigation & CAD(PW), Department, Secretariat Buildings, Hyderabad.
2. The Superintending Engineer, I&CAD, NKLISI Circle, Mahabubnagar District, Mahabubnagar.
3. The Superintending Engineer, I&CADD, SRSP Stage-II Circle, K.C. Camp, Warangal District, Warangal.
4. The Executive Engineer, SRSP Stage-II, Division-1, K.C, Camp, Warangal District, Warangal.
5. The Executive Engineer, I&CAD MGLISP, Division-1, Nagarkurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order or direction or a writ more particularly a Writ in the nature of mandamus declaring the action of the respondents in not considering the petitioner's case for reimbursement of excess seigniorage charges over and above the rates stipulated in agreements as illegal and arbitrary in respect of the works of the agreements No. 16/2004, dated 4-3-2004, No. 29/2003-04 dated 10-2-2004, NO. 9/NKLISI/2003-04, dated 9-2-2004 and No.10/NKLISI/2003-04, dated 2000, relating to the SRSP, Stage-II-Formation of Balancing Reservoir on Bayyana Vagu Under Kakatiya Main Canal System.

Counsel for the Petitioner: MR.P.PRATAP REDDY

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

WRIT PETITION NO : 4876 of 2005

Between:

K.Sagar Rao & Company, rep. by its Managing Partner,
K.Sagar Rao, S/o. Sri Purushotham Rao, aged about 53 years, Occ: Business, R/o. 203, My Home Hill View Apts, Somajiguda, Hyderabad.

..... PETITIONER

AND

1. The Govt. of Andhra Pradesh rep. by its Secretary, Irrigation & CAD (P.W.) Dept., Secretariat Buildings, Hyderabad.
2. The Superintending Engineer, I & CADD, SRSP Stage-II Circle,
   K.C.Camp, Warangal Dist., Hyderabad.
3. The Executive Engineer, SRSP Stage-II, Division-3,
   Torrur, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or a direction or a writ more particularly a writ in the nature of mandamus declaring the action of the respondents in not considering the petitioner's case for reimbursement of excess seigniorage charges over and above the rates stipulated in the agreements as illegal and arbitrary in respect of the works of the agreements No. 20/2004-05, dt. 9-8-2004, No. 21/2004-05, dated 9-8-2004, No. 22/204-05, dt. 9-8-2004, No. 23/2004-05, dt. 9-8-2004 and 24/2004-05, dt. 9-8-2004, relating to the SRSP stage-II, Earthwork Excavation Forming Embankment including construction of structures.

Counsel for the Petitioner: MR.P.PRATAP REDDY

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

WRIT PETITION NO : 11721 of 2005

Between:

M/s. Vishal Infrastructure Ltd.,rep.by its Managing Director K.Umeshm,S/o. Late Venkataraya, R/o. West Maredpally, Hyderabad.

..... PETITIONER

AND

1. The Managing Director APRDC & Ex-Officio Chief Engineer,(R&B) EAP, Erramanzil, Hyderabad.
2. The Superintending Engineer (R& B) Circle,
   Kadapa, Kadapa District.
3. The Executive Engineer (R& B) Circle,
   Pulivendeula, Kadapa District.
4. The Pay and Accounts Officer,
   Kadapa, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order direction more particularly in the nature of writ of Mandamus, declaring the action of the respondents in seeking to apply the seigniorage charges as per G.O.Ms.No. 217 (Industries & Commerce (MI) Department dated 29.9.2004 in respect of the works entrusted to the petitioner company viz., Agreement No. 32/APERP/2004-05 dated 23.12.2004 as arbitrary , illegal and violative of article 14 and 21 of the Constitution of India and consequently direct the respondents to recover the Seigniorage chares in accordance with the charges mentioned in the contract document as per the instructions issued in circular Memo No.TA7 /Courts/AEE.8/16541/2000 , dated 31.1.2005 issued by the Chief Engineer (R&B) Hyderabad.

Counsel for the Petitioner: MR.K.R.SASIDHARAN

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

WRIT PETITION NO : 11725 of 2005

Between:

M/s.SRK Constructions & Projects Pvt.Ltd., rep.by its Managing Director, Sri S.Ravi Kumar, S/o.Sanjeeva Reddy, R/o.H.No.2-695,
Eswar Singh Road, Nagarajpet, Kadapa-1.

..... PETITIONER

AND

1. The Managing Director, APRDC & EX-Officio Chief Engineer, (R&B) EAP, Erramanzil, Hyderabad.
2. The Superintending Engineer (R&B) Circle, Kadapa, Kadapa Dist.
3. The Executive Engineer (R&B), Pulivendula, Kadapa Dist.
4. The Executive Engineer (R&B) R&B Division, Kadapa, Kadapa Dist.
5. The Executive Engineer (R&B) Proddutur, Kadapa Dist.
6. The Pay & Accounts officer, Kadapa, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of Mandamus, declaring the action of the respondents in seeking to apply the seigniorage charges as per G.O.Ms.NO.217 (Industries & Commerce (MI) Department dated 29-9-2004 in respect of the works entrusted to the petitioner company viz., (a) C.R. agreement No80/2004-05 dated 26-11-2004, (b) C.R. Agreement NO.82/2004-05 dated 26-11-2004,and (c) C.R.Agreement No.75/2004-05 dated 3-11-2004, as arbitrary, illegal and violative of Article 14 and 21 of the Constitution of India and consequently direct the respondents to recover the seigniorage charges in accordance with the charges mentioned in the contract document as per the instructions issued in circular Memo NO.TA7/Courts/AEE.8/16541/2000, dated 31-1-2005 issued by the chief Engineer (R&B) Hyderabad.

Counsel for the Petitioner: MR.K.R.SASIDHARAN

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

WRIT PETITION NO : 11726 of 2005

Between:

M/s.SRK Constructions & Projects Pvt.Ltd., rep.by its Managing Director, Sri S.Ravi Kumar, S/o.Sanjeeva Reddy, R/o.H.No.2-695,
Eswar Singh Road, Nagarajpet, Kadapa-1.

..... PETITIONER

AND

1. The Managing Director, APRDC & EX-Officio Chief Engineer, (R&B) EAP, Erramanzil, Hyderabad.
2. The Superintending Engineer (R&B) Circle, Kadapa, Kadapa Dist.
3. The Executive Engineer (R&B), Pulivendula, Kadapa Dist.
4. The Executive Engineer (R&B) R&B Division, Kadapa, Kadapa Dist.
5. The Executive Engineer (R&B) Proddutur, Kadapa Dist.
6. The Pay & Accounts officer, Kadapa, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of Mandamus, declaring the action of the respondents in seeking to apply the seigniorage charges as per G.O.Ms.NO.217 (Industries & Commerce (MI) Department dated 29-9-2004 in respect of the works entrusted to the petitioner company viz., (a) C.R agreement No.185/2004-05 dated 18-11-2004, (b) C.R. Agreement NO.76/2004-05 dated 3-11-2003,and (c) C.R. Agreement No.69/2004-05 dated 26-11-2004, as arbitrary, illegal and violative of Article 14 and 21 of the Constitution of India and consequently direct the respondents to recover the seigniorage charges in accordance with the charges mentioned in the contract document as per the instructions issued in circular Memo NO.TA7/Courts/AEE.8/16541/2000, dated 31-1-2005 issued by the chief Engineer (R&B) Hyderabad.

Counsel for the Petitioner: MR.K.R.SASIDHARAN

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

WRIT PETITION NO : 11869 of 2005

Between:

M/s. Ysamuna Projects (P) Ltd., Thorrur, Warangal District, rep. by its Manaing Director, J. Bharathi, W/o. Sampath Rao, 1-7-875/A, 1st Floor, Hunter Road, Hanamkonda, Warangal District.

..... PETITIONER

AND

1. The Superintending Engineer, R&B Circle, Warangal, Warangal District.
2. The Executive Engineer, R&B Division, Mahaboobabad, Warangal District.
3. The Executive Engineer, R&B Circle, Warangal, Warangal District.
4. The Pay and Accounts Officer, Chintagattu, Hanamkonda, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue an appropriate writ, order or direction particularly one in the nature of writ of Mandamus, directing the respondents not to collect enhanced seigniorage charges from the petitioner in respect of all items in execution of contract works covered under the agreements and refund the enhanced seigniorage fee deducted from the bills of the petitioner.

Counsel for the Petitioner: MR.V.SREE RANGA RAO

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

WRIT PETITION NO : 11870 of 2005

Between:

M/s. Raghava Constructions, Narayanapuram (V), Peruvancha (Po),
Kallur (Mdl.), Khammam District, Rep. by its Managing Partner Sri P. Prasad Reddy.

..... PETITIONER

AND

1. Executive Engineer, NH-I Division, A.C. Guards, Hyderabad.
2. Superintendent Engineer, NH, Erramanzil, Hyderabad.

3. Regional Pay & Accounts Officer, NH, Bangalore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the Respondents in recovering the Seignorage charges at the rate of Rs. 45/- & Rs. 20/- instead of Rs. 30/-, Rs.33/- & Rs.13/- which is agreed in Agreement No. S.E's L.S.A.B.No. 39/2004-2005 dt. 29-1-2005 is illegal, arbitrary, discriminatory and in violation of Article 14 and 19(1)(G) of the Constitution of India and consequently to direct the Respondents to recover the Seignorage charges at the rate of Rs. 30/- , Rs.33/- & Rs.13/- according to the Agreement No.S.E's L.S.A.B.No. 39/2004-2005 dt. 29-1-2005.

Counsel for the Petitioner: MR.C.RAGHU

Counsel for the Respondents: GP FOR FINANCE & PLANNING

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.23852 of 2004, 3891, 4385, 4874, 4875, 4876, 11721, 11725, 11726, 11869 and 11870 of 2005

COMMON ORDER:

All the Writ Petitions are filed by special class civil contractors registered with Government of Andhra Pradesh. They are aggrieved by the action of Roads & Buildings Department Engineers in seeking to recover from the bills submitted by the petitioners, the seigniorage fee at enhanced rates as enhanced by Government in notification issued under Section 15(1) of the Mines and Minerals (Regulation and Development) Act, 1957 (for short, the Act) vide G.O.Ms.No.217, dt.29.9.2004. This Court initially granted interim orders in some cases in which the Government came forward with applications for vacating the interim orders. At that stage, all the matters were directed to be listed, heard finally and are being disposed of by this common order.

To appreciate the controversy the facts in W.P.No.23852 of 2004 may be noticed as an illustrative case. The petitioner, P.Mohan Reddy Engineers & Contractors, was awarded the work of strengthening of VBR earth dam sections from Km 4.300 to Km 5.400. The agreement between the petitioner and the Department was entered into on 13.9.2004. Clause 26.16 deals with the payment of seigniorage fee by the contractor. The same reads as under.

26.16 Seigniorage charges:

Seigniorage charges will be recovered from the work bills of the contractor, based on the theoretical requirements of materials at the following rates.

S.No.	Material	Seigniorage
1.2.3. 4.5.6.	SandMetal/BallastRR stone for masonryRevetment stoneC.R.S.stoneGarvel/Morrum/Earth	Rs.30.00/cum.Rs.33.00/cum.Rs.33.00/cum. Rs.33.00/cum.Rs.33.00/cum.Rs.13.00/cum.

The rates are liable to be revised and amended from time to time by the State Government, by notification in the "Andhra Pradesh Gazette". If the revised seigniorage fee is more than the above mentioned, the recovery from the contractor's bills is as per revised rates.

The petitioner, there is no dispute; commenced the work and thereafter the Government of Andhra Pradesh, in Industries & Commerce Department in exercise of their powers under sub-section (1) of Section 15 of the Act amended A.P. Minor Minerals Concession Rules, 1966 (for short, the Rules) (in G.O.Ms.No.1172, dt.4.9.1967). By reason of the said amendment in schedules I and II under Rule 10 of the Rules, new rates of seigniorage fee are prescribed and substituted. The rates of seigniorage fee were enhanced. Be it also noted that as per G.O.Ms.No.217, dt.29.9.2004, the enhanced rates came into force with effect from 1.10.2004.

After coming into force of the amendment to the A.P.Minor Minerals Rules with effect from 1.10.2004, it appears, the Engineers of Roads and Buildings Department insisted that the contractor should pay the enhanced seigniorage fee as per G.O.Ms.No.217, dt.29.9.2004 and also made attempts to deduct the enhanced seigniorage fee over and above the earlier rates from the bills submitted by the contractors. On this cause of action, all the writ petitions were filed.

In all other writ petitions, but for the difference in the dates of execution of the agreement and the dates for completion of the work, the facts are similar. In all the cases, petitioners entered into contracts prior to coming into force of G.O.Ms.No.217, dt.29.9.2004 and all the works are to be completed after 1.10.2004 and therefore they were also advised to pay enhanced rates of seigniorage fee.

In all the writ petitions respondents have filed counter affidavits. A reference may be made to the counter affidavit filed by third respondent in W.P.No.23852 of 2004. It is stated that as per the agreement seigniorage charges will be recovered as per the rules from the work of the contract or based on technical requirement of materials, and as per clause 26.16 the rates of seigniorage charges are liable to be revised as and when they are amended by the State Government in the A.P.Gazette. If the rates are revised and seigniorage fee is more than what is mentioned in the agreement, recovery has to be made from the bills submitted by the contractor. The petitioner agreed to condition No.26.16 and hence there is no illegality in collecting the enhanced rates of seigniorage fee as per G.O.Ms.No.217, dt.29.9.2004.

The Writ Petition is also opposed on the ground of maintainability and suggesting that grievance is redressable only in Civil Court. A reference is also made to an unreported judgment of Division Bench of this Court in **R.M.C.Constructions Ltd. V. The Engineer in Chief** (unreported judgment in W.P.No.26040 of 2001, dt.3.3.2003; hereafter called, **RMC Constructions** case) contending that the point raised herein is squarely covered by the Division Bench judgment just referred to.

Learned counsel for the petitioners, M/s.V.Sree Ranga Rao, P.Pratap Reddy and K.R.Sasidharan made the following submissions. The amendment under Section 15(1) of the Act vide G.O.Ms.No.217, dt.29.9.2004 being prospective with effect from 1.10.2004, the enhanced rates of seigniorage fee cannot be collected from the contractors. Clause 26.16 is a vague clause and therefore cannot be enforced. Alternatively, as the work is estimated by taking into consideration the rates of seigniorage fee as they existed prior to coming into force of G.O.Ms.No.217, dt.29.9.2004 the liability to pay enhanced seigniorage fee is not on the contractor, and therefore enhanced rates cannot be collected or deducted from the bills submitted by the contractors. Alternatively, they also submit that even if clause 26.16 enables the Government to collect enhanced rates of seigniorage fee in respect of work completed prior to 1.10.2004, the Government is not entitled to deduct or collect the enhanced seigniorage fee, prior to coming into force of G.O.Ms.No.217.

Learned Government Pleader for Roads and Buildings, Sri R. Satyanarayana Raju, at the out set, does not dispute that as per G.O.Ms.No.217, dt.29.9.2004 respondents are entitled to collect enhanced rates of seigniorage fee in respect of work or in respect of material extracted and used in the work after 1.10.2004. Therefore, this point need not detain this Court any longer. If there is any stray case where the respondents insisted upon the contractors to pay enhanced rates of seigniorage fee for the work completed from the date of contract till 30.9.2004, the respondents shall have to initiate steps for refunding or adjusting said amount in the other bills.

The core question is two-fold. Whether the Government can press into service clause 26.16 and whether Government can deduct the enhanced seigniorage fee as per G.O.Ms.No.217, dt.29.9.2004 from the bills submitted by the petitioners. Though there is feeble attempt on the part of the learned counsel for the petitioners, the question is squarely covered by unreported judgment of the Division Bench of this Court in **RMC Constructions** case (supra).

In **RMC Constructions** case (supra), the contractor was liable to pay seigniorage charges at the rate of 25% CMT. When the contract was in currency, the Government enhanced the rates of seigniorage fee by issuing notification vide G.O.Ms.No.331, dt. 21.6.2000. The action of the Government was impugned in the Writ Petition *inter alia* on the ground that G.O.Ms.No.331, dt.21.6.2000 being prospective in nature, the same cannot be applied to the contract entered into by the contractor prior to coming into force of the amendment. Reliance was also placed on the terms of the contract. The Division Bench did not agree with the submission. It was held that the State is entitled to collect seigniorage fee on the minerals extracted and removed from the land and therefore, the rates applicable on the date of extraction of minerals is prevalent rate which has to be paid by the contractor. It is apposite to excerpt the following.

> …In our considered opinion, the submission that levy and collection of the seigniorage charges at the rate of Rs.33/- per CMT would amount to giving retrospective operation to the amended Rules is misconceived. As we have observed hereinabove, the liability to pay the seigniorage fee specified is with reference to the extraction and removal of the minor minerals from the land for the purpose of consumption in any work whatsoever by the consumer. The State shall be entitled to levy and collect such seigniorage fee on the minor minerals extracted and removed from the land in accordance with the prevalent rates specified under the Rules as on that date of removal or extraction of the minor minerals. That is precisely what has happened in the instant case. The terms and conditions of agreement entered into by and between the parties or such similar arrangement if any made amongst the parties shall have no bearing upon the operation of the statute or statutory Rules as the case may be. The date on which the petitioner entered into an agreement with the respondents is totally irrelevant in our considered opinion for the purposes of levy and collection of the seigniorage fee in accordance with the rates specified under the Rules issued and amended from time to time.

A reading of the dicta, as above, would show that even in the absence of covenant/clause in the contract like clause 26.16 it is permissible for the Government to collect the enhanced rates of seigniorage fee. In this case, clause 26.16 obliges the contractor to pay the seigniorage charges as amended by the State from time to time and also empowers the employer to

recover the revised rates of seigniorage fee from the bills of the contractor. It is admitted case of all the petitioners that they entered contracts with the Government and such contract includes clause 26.16 which empowers the State to recover the enhanced seigniorage fee from the bills. Reading clause 26.16, this Court is not able to countenance the submission of the learned counsel for the petitioners that it is vague. Clause 26.16 speaks of revised rates of seigniorage fee and publication of amendment in the gazette. The seigniorage fee can be prescribed by the State only in exercise of their powers under Section 15(1) of the Act by duly amending schedule I to A.P.Minor Minerals Concession Rules. In that view of the matter, there is neither vagueness nor confusion in clause 26.16 of agreement. Said clause certainly refers to the revision of seigniorage fee as per the provisions of the Act duly amending A.P.Minor Minerals Concession Rules. Thus, the case of the respondents in seeking to recover enhanced rates of seigniorage fee with effect from 1.10.2004 does not suffer from any vice of illegality. However, as already observed, the Government is entitled to recover enhanced rates of seigniorage fee only with effect from 1.10.2004 that too on the minerals extracted by the contractors after 1.10.2004.

The Writ Petitions, with the above observations, are accordingly dismissed.

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23.6.2005 (V.V.S.RAO, J)

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To

1. The Secretary, Government of A.P., Irrigation & CAD. (PW) Department, Secretariat Buildings, Hyderabad.
2. The Superintending Engineer, Telugu Ganga Project Circle,
   Nadyal-518501, Kurnool District.
3. The Executive Engineer, Telugu Ganga Project Circle, Division.No.1,

Velugodu-518533, Kurnool District.

4. The Superintending Engineer, Irrigation & Command Area Development Department, Sriram Sagar Project,
   Stage-II, Warangal Circle, Warangal.
5. The Executive Engineer, Division II, Sriram Sagar Project Stage II, Warangal.
6. The Executive Engineer, Division I, Sriram Sagar Project Stage II, Warangal.
7. The Pay and Accounts Officer, Chinthagattu Camp, Warangal District.
8. The Chief Engineer, Sriram Sagar Project , Chintagattu Camp,
   Warangal, Warangal District.
9. The Superintending Engineer, SRSP. Stage II Circle, K.C. Camp, Chinthagattu Warangal.
10. The Executive Engineer, Chinthagattu Division - II, Hanamkonda ,
    Warangal District.
11. The Executive Engineer, Division No. III, Thorrur,Nalgonda District.
12. The Executive Engineer, Division No. IV, Suryapet, Nalgonda District.
13. The Superintending Engineer, O&M circle, Miryalguda, Nalgonda District.
14. The Superintending Engineer, Telugu Ganga Project, Circle, Srikalahasthi, Chittoor Dist.
15. The Executive Engineer, NSC Division, Miryalguda, Nalgonda District.
16. The Executive Engineer, Division No.II, G.V.Gudem, Nalgonda Dist.
17. The Executive Engineer, Division No.VII, Thipparthy, Nalgonda District.
18. The Executive Engineer, IB Division, Srikalahasthi, Chittoor District.
19. The Superintending Engineer, I&CAD, NKLISI Circle, Mahabubnagar District, Mahabubnagar.
20. The Superintending Engineer, I&CADD, SRSP Stage-II Circle, K.C. Camp, Warangal District, Warangal.
21. The Executive Engineer, SRSP Stage-II, Division-1, K.C, Camp, Warangal District, Warangal.
22. The Executive Engineer, I&CAD MGLISP, Division-1, Nagarkurnool.
23. The Superintending Engineer, I & CADD, SRSP Stage-II Circle,
    K.C.Camp, Warangal Dist., Hyderabad.

24. The Executive Engineer, SRSP Stage-II, Division-3,
Torrur, Warangal District.

25. The Managing Director APRDC & Ex-Officio Chief Engineer,(R&B) EAP, Erramanzil, Hyderabad.

26. The Superintending Engineer (R& B) Circle,
Kadapa, Kadapa District.

27. The Executive Engineer (R& B) Circle,
Pulivendeula, Kadapa District.

28. The Pay and Accounts Officer,
Kadapa, Kadapa District.

29. The Superintending Engineer, R&B Circle, Warangal, Warangal District.

30. The Executive Engineer, R&B Division, Mahaboobabad, Warangal District.

31. The Executive Engineer, R&B Circle, Warangal, Warangal District.

32. The Pay and Accounts Officer, Chintagattu, Hanamkonda, Warangal District.

33. Executive Engineer, NH-I Division, A.C. Guards, Hyderabad.

34. Superintendent Engineer, NH, Erramanzil, Hyderabad.

35. Regional Pay & Accounts Officer, NH, Bangalore.

36. 2CCs to the Government Pleader for Irrigation and Command Area Development, High Court Buildings, Hyderabad. (OUT).

37. 2CCs to the Government Pleader for Roads and Buildings, High Court Buildings, Hyderabad. (OUT)

38. 2CCs to the Government Pleader for Finance and Planning, High Court Buildings, Hyderabad. (OUT)

39. 1CC to Mr.Pratap Reddy.